

SENATE BILL 932

M4, M3, M1

4lr3246
CF HB 1042

By: **Senators Elfreth, Gile, Hester, and Jackson**

Introduced and read first time: February 2, 2024

Assigned to: Education, Energy, and the Environment

A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Agricultural BMP Best in Show Program – Established**

3 FOR the purpose of establishing the Maryland Agricultural BMP Best in Show Program to
4 provide and prioritize the use of certain funding relating to agricultural best
5 management practices and to increase the cost-effectiveness and environmental,
6 social, and health impacts of State-funded best management practices in a certain
7 manner; requiring the Department of Agriculture to administer and manage certain
8 competitive grants under the Program in a certain manner; establishing the
9 Maryland Agricultural BMP Best in Show Account in the Department; requiring an
10 applicant for a grant under the Program to provide certain information relating to
11 proposed best management practices; and generally relating to agricultural best
12 management practices.

13 BY adding to

14 Article – Agriculture

15 Section 2–2301 and 2–2302 to be under the new subtitle “Subtitle 23. Maryland
16 Agricultural BMP Best in Show Program”

17 Annotated Code of Maryland

18 (2016 Replacement Volume and 2023 Supplement)

19 BY repealing and reenacting, without amendments,

20 Article – Environment

21 Section 9–1605.4(b) and (f)(1)

22 Annotated Code of Maryland

23 (2014 Replacement Volume and 2023 Supplement)

24 BY repealing and reenacting, with amendments,

25 Article – Environment

26 Section 9–1605.4(f)(3)

27 Annotated Code of Maryland

28 (2014 Replacement Volume and 2023 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 BY repealing and reenacting, without amendments,
2 Article – Natural Resources
3 Section 8–2A–02(a)
4 Annotated Code of Maryland
5 (2023 Replacement Volume and 2023 Supplement)

6 BY repealing and reenacting, with amendments,
7 Article – Natural Resources
8 Section 8–2A–02(f)(1)
9 Annotated Code of Maryland
10 (2023 Replacement Volume and 2023 Supplement)

11 BY adding to
12 Article – Natural Resources
13 Section 8–2A–02(f)(5)
14 Annotated Code of Maryland
15 (2023 Replacement Volume and 2023 Supplement)

16 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
17 That the Laws of Maryland read as follows:

18 **Article – Agriculture**

19 **SUBTITLE 23. MARYLAND AGRICULTURAL BMP BEST IN SHOW PROGRAM.**

20 **2–2301.**

21 **(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS**
22 **INDICATED.**

23 **(B) “AGRICULTURAL LAND TRANSITION” MEANS THE IDENTIFICATION OF**
24 **AGRICULTURAL LANDS THAT ARE FACING LOSS OR SIGNIFICANT REDUCTION OF**
25 **AGRICULTURAL PRODUCTION CAPACITY DUE TO PREDICTED SALTWATER**
26 **INTRUSION OR FREQUENT FLOODING AND THE RESULTING IMPLEMENTATION OF**
27 **BEST MANAGEMENT PRACTICES TO CONVERT THOSE LANDS TO FUNCTIONING**
28 **WETLANDS, STREAMS, OR FOREST BUFFER HABITAT.**

29 **(C) “BEST MANAGEMENT PRACTICE” MEANS A CONSERVATION OR**
30 **POLLUTION CONTROL PRACTICE THAT:**

31 **(1) REDUCES SOIL OR NUTRIENT LOSS DUE TO FARMING PRACTICES;**
32 **OR**

1 **(2) MANAGES OR MITIGATES THE IMPACT OF POLLUTANTS, ANIMAL**
2 **WASTES, OR AGRICULTURAL CHEMICALS ON WATERS OF THE STATE OR THE**
3 **ENVIRONMENT.**

4 **(D) “ECOLOGICAL TIPPING POINT” MEANS A CONDITION IN WHICH AN**
5 **ECOLOGICALLY DEGRADED OR IMPAIRED STREAM SEGMENT HAS IMPROVED**
6 **ENOUGH SUCH THAT MONITORING DATA SHOWS NEWLY HEALTHY BENTHIC**
7 **POPULATIONS AND BIOTIC INTEGRITY OR WATER QUALITY THAT SUPPORTS ALL**
8 **DESIGNATED USES, INCLUDING SIGNIFICANTLY ENHANCED LIVING RESOURCES.**

9 **(E) “PROGRAM” MEANS THE MARYLAND AGRICULTURAL BMP BEST IN**
10 **SHOW PROGRAM ESTABLISHED UNDER § 2-2302 OF THIS SUBTITLE.**

11 **(F) “SHALLOW WATER HABITAT” MEANS THE PORTION OF THE**
12 **CHESAPEAKE AND ATLANTIC COASTAL BAYS AND THEIR TRIBUTARIES FOR WHICH**
13 **THE STATE HAS ADOPTED WATER QUALITY CRITERIA TO SUPPORT SUBMERGED**
14 **AQUATIC VEGETATION.**

15 **2-2302.**

16 **(A) THERE IS A MARYLAND AGRICULTURAL BMP BEST IN SHOW**
17 **PROGRAM.**

18 **(B) THE PURPOSE OF THE PROGRAM IS TO:**

19 **(1) PROVIDE GREATER FUNDING NEEDED TO PROVIDE PRODUCERS**
20 **WITH GREATER INCENTIVES TO PARTICIPATE IN THE COORDINATED FUNDING OF**
21 **MULTIPLE BEST MANAGEMENT PRACTICES WITHIN INDIVIDUAL AGRICULTURAL**
22 **OPERATIONS OR ACROSS MULTIPLE OPERATIONS IN CLOSE PROXIMITY;**

23 **(2) PRIORITIZE THE USE OF AGRICULTURAL COST-SHARE FUNDING**
24 **AND OTHER STATE FUNDS TO SUPPORT THE COORDINATED ESTABLISHMENT OF**
25 **BEST MANAGEMENT PRACTICES IN LOCATIONS MOST LIKELY TO HAVE A**
26 **SHORT-TERM BENEFICIAL IMPACT ON WATER QUALITY, LIVING RESOURCES, OR**
27 **PUBLIC HEALTH; AND**

28 **(3) INCREASE THE COST-EFFECTIVENESS AND ENVIRONMENTAL,**
29 **SOCIAL, AND HEALTH IMPACTS OF STATE-FUNDED BEST MANAGEMENT PRACTICES**
30 **THROUGH GREATER COORDINATION, PLANNING, TARGETING, OR USE OF**
31 **HIGH-PRIORITY PRACTICES THAT PROVIDE ENVIRONMENTAL, SOCIAL, AND**
32 **RESILIENCY BENEFITS IN ADDITION TO NUTRIENT AND SEDIMENT REDUCTION.**

1 **(C) TO CARRY OUT THE PURPOSE OF THE PROGRAM, THE DEPARTMENT**
2 **SHALL:**

3 **(1) ASSIGN A PROGRAM ADMINISTRATOR AND PROVIDE FOR**
4 **ADEQUATE ADMINISTRATIVE SUPPORT;**

5 **(2) DEVELOP, ADVERTISE, AND RECEIVE COMPETITIVE PROGRAM**
6 **GRANT APPLICATIONS;**

7 **(3) EVALUATE APPLICATIONS AND SELECT GRANTEEES NOT LESS**
8 **THAN ANNUALLY;**

9 **(4) ADMINISTER AND MANAGE GRANTS UNDER THE PROGRAM,**
10 **INCLUDING BY MONITORING AND EVALUATING STATE-FUNDED BEST MANAGEMENT**
11 **PRACTICES; AND**

12 **(5) COORDINATE WITH THE DEPARTMENT OF NATURAL RESOURCES**
13 **AND THE DEPARTMENT OF THE ENVIRONMENT TO PROVIDE TECHNICAL**
14 **ASSISTANCE AND GUIDANCE TO APPLICANTS AND GRANTEEES, INCLUDING METHODS**
15 **AND PROCEDURES FOR MONITORING, EVALUATING, AND VERIFYING PROJECT**
16 **OUTCOMES.**

17 **(D) (1) THERE IS A MARYLAND AGRICULTURAL BMP BEST IN SHOW**
18 **ACCOUNT IN THE DEPARTMENT.**

19 **(2) THE MARYLAND AGRICULTURAL BMP BEST IN SHOW ACCOUNT**
20 **CONSISTS OF:**

21 **(I) NOT MORE THAN \$2,000,000 PER YEAR OF THE REVENUES**
22 **TRANSFERRED TO THE DEPARTMENT FROM THE BAY RESTORATION FUND UNDER**
23 **§ 9-1605.2(H)(2)(II) OF THE ENVIRONMENT ARTICLE;**

24 **(II) NOT MORE THAN \$3,000,000 PER YEAR OF THE REVENUES**
25 **TRANSFERRED TO THE DEPARTMENT FROM THE CHESAPEAKE AND ATLANTIC**
26 **COASTAL BAYS 2010 TRUST FUND UNDER § 8-2A-02(F)(5) OF THE NATURAL**
27 **RESOURCES ARTICLE;**

28 **(III) ANY AGRICULTURAL COST-SHARE FUNDING PROVIDED BY**
29 **THE DEPARTMENT UNDER § 8-704 OF THIS ARTICLE FOR THE PURPOSE OF THE**
30 **PROGRAM; AND**

1 (IV) ANY FUNDS TRANSFERRED TO THE DEPARTMENT FROM
2 THE CLEAN WATER COMMERCE ACCOUNT UNDER § 9-1605.4(F)(3)(III) OF THE
3 ENVIRONMENT ARTICLE.

4 (3) AT THE END OF EACH FISCAL YEAR, ANY UNUSED FUNDS
5 REMAINING IN THE ACCOUNT MAY BE RETURNED TO THE SOURCE FROM WHICH THE
6 FUNDS WERE RECEIVED.

7 (E) (1) AN APPLICANT FOR A GRANT UNDER THIS SECTION SHALL
8 DEMONSTRATE THAT ANY AGRICULTURAL OPERATION ON WHICH BEST
9 MANAGEMENT PRACTICES ARE TO BE ESTABLISHED ARE IN COMPLIANCE WITH ANY
10 NUTRIENT MANAGEMENT PLAN OR CONSERVATION PLAN REQUIRED UNDER THIS
11 ARTICLE.

12 (2) AN APPLICANT SHALL INCLUDE A PLAN FOR THE
13 IMPLEMENTATION OF:

14 (I) NOT LESS THAN FIVE DIFFERENT TYPES OF BEST
15 MANAGEMENT PRACTICES, WITH PRIORITY CONSIDERATION GIVEN TO THOSE
16 PRACTICES LISTED UNDER PARAGRAPH (4)(II) OF THIS SUBSECTION, DESIGNED TO
17 FUNCTION AS PART OF A COMMON PLAN TO MAXIMIZE IMPACT AND EFFICIENCY; OR

18 (II) FOR AN OPERATION LOCATED IN AN OVERBURDENED
19 COMMUNITY OR UNDERSERVED COMMUNITY, AS DEFINED IN § 1-701 OF THE
20 ENVIRONMENT ARTICLE, A VEGETATIVE ENVIRONMENTAL BUFFER, HEDGEROW,
21 WINDBREAK, OR OTHER BEST MANAGEMENT PRACTICE OR COMBINATION OF
22 PRACTICES DESIGNED TO REDUCE EXPOSURE TO AIR EMISSIONS FROM REGULATED
23 POINT SOURCES OF POLLUTION.

24 (3) AN APPLICANT SHALL:

25 (I) PROVIDE AN IMPLEMENTATION AND MONITORING PLAN
26 SUFFICIENT TO EVALUATE ACHIEVEMENT OF THE ENVIRONMENTAL, SOCIAL,
27 RESILIENCY, NUTRIENT REDUCTION, AND SEDIMENT REDUCTION OUTCOMES OF
28 THE PROJECT;

29 (II) IDENTIFY THE WATER QUALITY, LIVING RESOURCE, OR
30 OTHER ENVIRONMENTAL AND SOCIAL BENEFITS ANTICIPATED FROM THE BEST
31 MANAGEMENT PRACTICES, ALONG WITH THE ANTICIPATED TIMELINE FOR
32 ACHIEVEMENT OF THE BENEFITS;

33 (III) DESCRIBE ANY KNOWN AND RELEVANT ENVIRONMENTAL
34 FEATURES THAT DEMONSTRATE HOW THE SPECIFIC LOCATIONS FOR BEST

1 MANAGEMENT PRACTICE ESTABLISHMENT ARE LIKELY TO PROVIDE A
2 PARTICULARLY ROBUST AND ACCELERATED RESPONSE, INCLUDING
3 CONSIDERATIONS OF:

4 1. PROXIMITY TO WATERS OF THE STATE;

5 2. KNOWN ENVIRONMENTAL OR HYDROLOGIC
6 INFORMATION, INCLUDING GROUNDWATER TRANSPORT RATES, POLLUTANT
7 ATTENUATION, POLLUTANT DELIVERY RATIOS, AND SOIL TYPES;

8 3. ATTAINMENT STATUS OF WATER QUALITY
9 STANDARDS;

10 4. LOCATION WITHIN THE BUFFER OF A CHESAPEAKE
11 OR ATLANTIC COASTAL BAYS CRITICAL AREA OR OTHER AREA DESIGNATED FOR
12 REGULATION OR SPECIAL PROTECTION UNDER A STATE OR FEDERAL LAW; AND

13 5. HUMAN POLLUTANT EXPOSURE PATHWAYS,
14 INCLUDING PROXIMITY TO NEARBY RESIDENTIAL AREAS AND ANTICIPATED
15 IMPROVEMENTS TO DRINKING WATER, AIR QUALITY, AND REDUCTION OF EXPOSURE
16 TO RUNOFF; AND

17 (IV) ALLOW THE DEPARTMENT TO INSPECT AND EVALUATE
18 BEST MANAGEMENT PRACTICE EFFECTIVENESS, INCLUDING THROUGH
19 MONITORING AND SAMPLING ACTIVITIES, ON AN AGREED-ON SCHEDULE.

20 (4) (I) WHEN EVALUATING APPLICATIONS FOR THE USE OF FUNDS
21 UNDER THIS SECTION, THE DEPARTMENT SHALL PRIORITIZE BEST MANAGEMENT
22 PRACTICES THAT THE APPLICANT DEMONSTRATES ARE:

23 1. IN CLOSE PROXIMITY AND LIKELY TO PROVIDE
24 ENHANCED AND ACCELERATED BENEFITS TO A PARTICULAR AREA OF SHALLOW
25 WATER HABITAT;

26 2. POTENTIALLY CAPABLE OF REDUCING POLLUTION TO
27 WATERS OF THE STATE SUFFICIENT TO REACH AN ECOLOGICAL TIPPING POINT; OR

28 3. LIKELY TO REDUCE HEALTH BURDENS FOR NEARBY
29 RESIDENTS THROUGH THE REDUCTION OF EXPOSURE TO AIR POLLUTANTS OR
30 CONTAMINATED DRINKING WATER.

31 (II) PRIORITY BEST MANAGEMENT PRACTICES INCLUDE:

1 1. VEGETATIVE ENVIRONMENTAL BUFFERS,
2 HEDGEROWS, WINDBREAKS, OR OTHER PRACTICES DESIGNED TO REDUCE THE
3 TRANSPORT OF AIR EMISSIONS AND DEPOSITION;

4 2. STREAM EXCLUSION FENCING;

5 3. RIPARIAN TREE PLANTING AND OTHER HIGH-IMPACT
6 FIXED NATURAL FILTER PRACTICES AS DEFINED IN § 8-701 OF THIS ARTICLE;

7 4. WETLAND RESTORATION OR ESTABLISHMENT;

8 5. LAND RETIREMENT AND CONSERVATION;

9 6. SMALL-SCALE URBAN AGRICULTURAL PRACTICES;

10 7. AGRICULTURAL LAND TRANSITION PRACTICES;

11 8. MUSSEL RESTORATION;

12 9. BIORETENTION; AND

13 10. AGRICULTURAL DITCH MANAGEMENT PRACTICES,
14 INCLUDING DENITRIFYING BIOREACTORS.

15 (F) (1) THE DEPARTMENT SHALL PUBLISH ON ITS WEBSITE:

16 (I) A BEST MANAGEMENT PRACTICE PAYMENT SCHEDULE;

17 (II) ANY CRITERIA USED FOR THE EVALUATION OF
18 COMPETITIVE APPLICATIONS AND SELECTION OF GRANTEES;

19 (III) THE PROCEDURES FOR MEASURING THE EFFECTIVENESS
20 OF BEST MANAGEMENT PRACTICES THAT ARE TO BE INCLUDED IN ANY GRANT
21 AGREEMENT; AND

22 (IV) A MAP PROVIDED BY OR PRODUCED IN CONSULTATION
23 WITH THE DEPARTMENT OF NATURAL RESOURCES THAT DEPICTS AREAS OF THE
24 STATE TO BE PRIORITIZED FOR FUNDING UNDER THE PROGRAM WITH SPECIAL
25 CONSIDERATION GIVEN TO:

26 1. OVERBURDENED AND UNDERSERVED COMMUNITIES;

27 OR

1 **1.** Support State and local watershed implementation plans
2 by targeting limited financial resources on the most effective nonpoint source pollution
3 control projects; and

4 **2.** **IMPROVE THE HEALTH OF THE ATLANTIC COASTAL**
5 **BAYS AND THEIR TRIBUTARIES; OR**

6 (ii) [Improve the health of the Atlantic Coastal Bays and their
7 tributaries] **BEST MANAGEMENT PRACTICES IN ACCORDANCE WITH § 2-2302 OF THE**
8 **AGRICULTURE ARTICLE.**

9 **(5)** **UP TO \$3,000,000 OF THE FUND MAY BE TRANSFERRED TO THE**
10 **DEPARTMENT OF AGRICULTURE ANNUALLY TO BE USED IN ACCORDANCE WITH §**
11 **2-2302 OF THE AGRICULTURE ARTICLE.**

12 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
13 October 1, 2024.